

Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU

## *CHAPTER XVII*

### ***Liability and penalties***

#### *Article 72*

#### **Liability**

1 Without prejudice to the right to compensation and to any liability under Regulation (EU) 2016/679, Directive (EU) 2016/680 and Regulation (EU) 2018/1725:

- a any person or Member State that has suffered material or non-material damage, as a result of an unlawful personal data processing operation through the use of N.SIS or any other act incompatible with this Regulation by a Member State, shall be entitled to receive compensation from that Member State; and
- b any person or Member State that has suffered material or non-material damage as a result of any act by eu-LISA incompatible with this Regulation shall be entitled to receive compensation from eu-LISA.

A Member State or eu-LISA shall be exempted from their liability under the first subparagraph, in whole or in part, if they prove that they are not responsible for the event which gave rise to the damage.

2 If any failure of a Member State to comply with its obligations under this Regulation causes damage to SIS, that Member State shall be held liable for such damage, unless and insofar as eu-LISA or another Member State participating in SIS failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.

3 Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the national law of that Member State. Claims for compensation against eu-LISA for the damage referred to in paragraphs 1 and 2 shall be subject to the conditions provided for in the Treaties.

#### *Article 73*

#### **Penalties**

Member States shall ensure that any misuse of SIS data or any processing of such data or any exchange of supplementary information contrary to this Regulation, is punishable in accordance with national law.

The penalties provided for shall be effective, proportionate and dissuasive.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are outstanding changes not yet made to Regulation (EU) 2018/1862 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.